

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 21-CR-0151 (PJS/ECW)

Plaintiff,

v.

ORDER

JOSE ERASMO CRUZ-MARTINEZ,

Defendant.

Andrew Dunne, UNITED STATES ATTORNEY'S OFFICE, for plaintiff.

John S. Hughes, LAW OFFICE OF JOHN HUGHES, for defendant.

This matter is before the Court on defendant Jose Erasmo Cruz-Martinez's objection to the November 1, 2021 Report and Recommendation ("R&R") of Magistrate Judge Elizabeth Cowan Wright recommending denial of Cruz-Martinez's motion to suppress evidence. In particular, Cruz-Martinez argues that Judge Wright erred in finding probable cause for the warrant for the upstairs apartment, erred in concluding that the upstairs apartment was identified with sufficient particularity, and erred in finding that, even if the warrant was not supported by probable cause, the evidence from the search of the upstairs apartment would still be admissible under the good-faith exception recognized by the Supreme Court in *United States v. Leon*, 468 U.S. 897 (1984).

The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b). Based on that review, the Court overrules Cruz-Martinez’s objection and adopts the R&R. The Court has sympathy for Cruz-Martinez’s argument regarding probable cause—and, were the Court writing on a clean slate, the Court might well agree with it. But the Court agrees with Judge Wright that, under existing precedent, the affidavit submitted in support of the search-warrant application—including Agent Bill Hudson’s statement that, in his training and experience, it is common for those engaged in selling illegal drugs to keep evidence of their crimes in their residences—supplied probable cause supporting the warrant. The Court does not believe that the other two issues are close. For the reasons described by Judge Wright, the upstairs apartment was clearly identified with sufficient particularity and, even if the warrant was not supported by probable cause, the evidence from the search of the upstairs apartment would clearly be admissible under *Leon*.

ORDER

Based on all of the files, records, and proceedings herein, the Court OVERRULES defendant’s objection [ECF No. 35] and ADOPTS the R&R [ECF No. 34]. Accordingly, IT IS HEREBY ORDERED THAT defendant’s motion to suppress evidence obtained in violation of the Fourth Amendment [ECF No. 21] is DENIED.

Dated: December 8, 2021

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge